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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,013	06/30/2000	Christopher J. Lasher	103864-1200RI	9950

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EXAMINER

KIM, EUGENE LEE

ART UNIT PAPER NUMBER

3721

DATE MAILED: 05/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/608,013

Applicant(s)

LASHER ET AL.

Examiner

Eugene Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-134 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-16, 30, 31, 36-44, 49-59, 65-76, 81-115 and 121-134 is/are rejected.
- 7) ☐ Claim(s) 5, 17-29, 32-35, 45-48, 60-64, 77-80 and 116-120 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-4, 6-9, 30-31, 36-44, 49-59, 65-76, 81-115, 121-134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charhut et al (#5,208,762) in view of Bailer (5,463,84). Charhut et al show an automatic prescription filling method and apparatus that comprising multiple conveyors 24a, b, c that are transporting multiple containers. Charhut et al show labeling means, pick up means, capping means, scanning means and a sorting conveyor means 42. Charhut et al show a prescription being made by inputting a patient entry list which acts as a bar code/identification means and filling an order based upon the entry list. The computer means of Charhut et al processes information from the entry list or input means and performs the filling operation accordingly. A vial or container is filled according to the order automatically wherein no one is needed to manually load or count the pills needed for each order. Charhut shows in figure 7 that filling lines are formed prior to the filling operation by lining up prescriptions in lines 12, 14, 16 in an optimal format. Charhut also disclose that control system 80 from computer 70 is used to process the patient entry list to fill each prescription order accordingly. As shown in figure 8, Charhut also uses different vials as indicated by the flow chart box of calculating vial size needed for each prescription. Also, Charhut et al show different vial sizes in the figures by elements 26a, b, c with 60cc, 120cc and 250 cc vials. Charhut also shows in figure 8 that the vials are maneuvered in optimal format to the shortest wait. This infers that the bottles/vials are loaded up in a scheduled format for optimal results. Charhut disclose that conveyor 24

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separates the containers and spaces them on the conveyor into a vial filler. Charhut also discloses that the filler comprises an automatic tablet control machine (col 3 lines 40+) and the tablets are counted into the vial until filling is complete (col 3 lines 60+). Charhut teaches the basic concept of printing labels for each corresponding vial/bottle. The plurality of bottle carriers as claimed are read on carrier means 24a, b, and 24c. Charhut does disclose that the vials are separated and stored in bin means 40 which have bar codes (col 5 lines 50+). Therefore, Charhut shows the concept of separating individual prescription orders but does not show a consolidation packaging station or literature insert packaging means as claimed. Bailer teaches the basic concept of assembling orders wherein a literature insert is assembled for a particular order and placed into a carton. Bailer discloses that it is standard to include literature inserts in shipping orders (col 1 lines 10+). Inherently, there is some printing means to form the literature packs to go with the shipping container. Furthermore, as stated supra, Charhut discloses printing particular labels for each corresponding vial. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Charhut with a shipping container with a corresponding literature package as taught by Bailer to provide for a shipping package with related literature written information or instructions. Regarding radio tags, radio tags are well known in the art as they are marketed by Texas Instruments, Inc and disclosed in applicant's issued patents, such as, pat no. 5660305. The actual identification means whether it's a radio tag, bar code, etc...is a matter of design choice and Charhut shows the basic concept of using identification means to perform subsequent processing.

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2. Claims 5, 17-29, 32, 3-5, 45-48, 60-64, 77-80, 116-120 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
3. Applicant's arguments with respect to claims supra have been considered but are moot in view of the new ground(s) of rejection.
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harding et al disclose that radio tags are well known in the art and are a known equivalent to a bar code identification means (col 3 lines 50+).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Kim whose telephone number is (703)308-1886. The examiner can normally be reached on Tuesday-Friday 7:30 a.m - 6:00 p.m.

The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.



Eugene Kim
May 2, 2002